

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BLUEFIELD DIVISION

OHIO VALLEY ENVIRONMENTAL
COALITION, WEST VIRGINIA
HIGHLANDS CONSERVANCY,
APPALACHIAN VOICES, and
SIERRA CLUB,

Plaintiffs,

v.

Civil Action No. 1:19-cv-00576

BLUESTONE COAL CORPORATION,

Defendant.

The telephonic deposition of **GEORGE WILLIAM STEPHENS** was taken under the Federal Rules of Civil Procedure in the above-entitled action before Joseph M. Miller, a Certified Court Reporter and Notary Public within and for the State of West Virginia, on the 20th day of March 2020, commencing at 9:35 a.m., pursuant to notice.

MOUNTAIN STATE REPORTING, LLC
(304) 727-8590

PLAINTIFFS' SUMMARY JUDGMENT EXHIBIT H

APPEARANCES:

(Via Telephone)

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I N D E X

<u>Witness</u>	<u>Examination</u>
George William Stephens	4 (Teaney)

E X H I B I T S

<u>Stephens Deposition Exhibits</u>	<u>Marked</u>
No. 1, Document Bates No. BCB 005670	22
No. 2, Lease Proposal	32
No. 3, E-Mail Chain	41
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No. 5, E-Mail Chain	48
No. 6, E-Mail Chain	54
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Errata Sheet	90

1 (Witness sworn.)

2 THEREUPON,

3 **GEORGE WILLIAM STEPHENS,**

4 having been first duly sworn to tell the truth, was examined
5 and testified as follows:

6 **EXAMINATION**

7 **BY MR. TEANEY:**

8 Q Good morning, Mr. Stephens.

9 A Good morning.

10 Q My name is Derek Teaney and I am counsel for
11 the Plaintiffs in this matter. Are you aware that you are
12 here today to give a deposition in a federal lawsuit between
13 certain environmental groups, including the Ohio Valley
14 Environmental Coalition, against Bluestone Coal Corporation
15 for violations of selenium limits?

16 A Yes.

17 Q Very good. Have you ever been deposed
18 before?

19 A Not that I can recall.

20 Q Okay. Well, so this is really just a
21 conversation between you and I, with the exception of course
22 that our friend Joe Miller is recording this. He will be
23 transcribing what we say. And because we are doing this
24 telephonically, it's very important that we work hard not to

1 speak over each other, particularly because we aren't going
2 to be able to have visual cues about when the other is done
3 speaking. So it may be a little clunky, but I think if we're
4 very conscious of that we may be able to prevent cross talk,
5 which makes it difficult for the reporter to record what's
6 being said.

7 So I'll ask questions. It may come that I
8 ask a question to which your counsel, Mr. Bryant, will object.
9 And this isn't like what you see in a courtroom where there's
10 a judge to resolve the objections. Unfortunately, we don't
11 have that, and so really in most cases you will still need
12 to answer the question, even if an objection is leveled,
13 unless your counsel instructs you otherwise.

14 If it happens that I ask a question that you
15 do not understand, please don't hesitate to ask me what I mean
16 or to ask for clarification. Does all of that make sense to
17 you?

18 A Understood.

19 Q Very good. In that case we'll begin with the
20 questions. We'll start with the easiest. Can you please
21 state your name for the record, sir?

22 A George William Stephens.

23 Q Very good. And would you spell your last
24 name for the record?

1 A S-t-e-p-h-e-n-s.

2 Q Thank you. And by whom are you employed, Mr.
3 Stephens?

4 A Bluestone Resources.

5 Q Bluestone Resources, very good. And are
6 they the ones who cut your paycheck?

7 A Yes.

8 Q Very good. What is your title with
9 Bluestone Resources?

10 A At the moment it is environmental manager.

11 Q And how would you describe your job duties
12 as environmental manager for Bluestone Resources?

13 A Let me clarify. Environmental compliance
14 manager. I'm sorry.

15 Q Okay. I appreciate the clarification. How
16 long have you been in the position of environmental compliance
17 manager?

18 A September 28, 2018.

19 Q Very good. And would you describe for me
20 your duties as environmental compliance manager for Bluestone
21 Resources?

22 A My job is to compile all of the water data
23 and to compile the violations and maintain the database, as
24 well our Dropbox, and make sure that quarterly reports are

1 A No.

2 Q Okay. Have you participated in Bluestone's
3 efforts in fish sampling at the Red Fox mine to determine
4 selenium levels in the fish?

5 A Yes.

6 Q Okay. Generally speaking, what's happening
7 there?

8 A Basically, the fish study has been complete
9 and modifications to the permit have been submitted with the
10 findings and recommendations of Barry Doss. There is only
11 one outfall that's in question, and I don't believe a decision
12 has been made yet. It's still in discussion with Outfall 006
13 as to how we're going to pursue it.

14 Q So is it correct then that at this time that
15 no request has been made to DEP with regard to Outfall 006?

16 A Say that again, please.

17 Q I was just trying to paraphrase that last
18 part of your testimony. Is it correct that at this time, as
19 we sit here today, no request to DEP has been made with regard
20 to the selenium limits at Outfall 6 of the Red Fox mine?

21 A I don't - do you want to -

22 MR. BRYANT: The question is -

23 MR. TEANEY: I'll ask the question. Thank
24 you, Ben. I appreciate it. This is good for me too.

1 BY MR. TEANEY:

2 Q Outfall 6 at Red Fox, right, you-all haven't
3 asked DEP to modify that yet, have you?

4 A No.

5 Q Why not?

6 A Well, in the finalization of the fish study,
7 that was one of the outfalls where the results were not, I
8 would say, in the right limits to request that because, as
9 I'm being told - well, I'll leave it at that. Basically it's
10 within the right limits to request, so we would have to look
11 for an alternate means to treat 006.

12 Q And what alternate means of treating 006 is
13 the company considering?

14 A That's not a decision that I would make.
15 It's still in discussion.

16 Q I understand that it's not a decision that
17 you would make. In those discussions, what treatment is the
18 company considering?

19 A I have not been given an answer on that yet.

20 Q Have you participated in the discussions?

21 A Not in the last discussion for 006, but
22 basically the report was just sent with Barry's
23 recommendation, the subject matter expert with the fish
24 tissue.